



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF J-L-I-, P.C.

DATE: MAR. 5, 2018

MOTION ON ADMINISTRATIVE APPEALS OFFICE DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a law firm, seeks to employ the Beneficiary as an attorney. It requests classification of the Beneficiary as a member of the professions holding an advanced degree under the second preference immigrant category. Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). This "EB-2" classification allows a U.S. employer to sponsor a professional with an advanced degree for lawful permanent resident status.

The Director of the Texas Service Center denied the petition on the ground that the Petitioner did not establish its continuing ability to pay the proffered wage from the priority date onward. The Petitioner filed an appeal, which we dismissed. Like the Director, we found that the Petitioner did not establish its continuing ability to pay the proffered wage from the priority date onward. We also found that the Petitioner did not establish that the Beneficiary had the requisite experience to qualify for the job offered under the terms of the labor certification.

The case is now before us on a motion to reopen and a motion to reconsider. The Petitioner submits additional documentation and asserts that this evidence overcomes both grounds for dismissal.

Upon review, we will grant the motion to reopen and sustain the appeal.

On motion to reopen, the Petitioner submits new evidence to demonstrate its ability pay the proffered wage. A petitioner must establish that it has the ability to pay the beneficiary the proffered wage, as stated on the labor certification, from the priority date onward. *See* 8 C.F.R. § 204.5(g)(2). Here, the Petitioner's evidence overcomes our previous finding that it did not demonstrate its ability to pay in 2014 and 2015. Specifically, the evidence submitted on motion shows, by a preponderance of the evidence, that the Beneficiary was paid more than previously recognized and demonstrates that the Petitioner's net current assets were sufficient in the years in question to pay the difference between the proffered wage and the wages paid to the Beneficiary.

The Petitioner also submits additional evidence regarding the Beneficiary's prior experience. A petitioner must establish that the beneficiary meets all of the experience requirements of the offered position, as stated on the labor certification, by the priority date. *See Matter of Wing's Tea House*, 16 I&N Dec. 158, 159 (Act. Reg'l Comm'r 1977). In this case the labor certification requires three months of experience in international refugee law work. On motion the Petitioner submits a letter

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confirming her possession of the required experience. The Beneficiary's job duties, as described in the letter, accord with the job duties as described in the labor certification. Accordingly, we find that the Beneficiary meets the experience requirement of the labor certification.

The Petitioner has overcome both grounds for our previous dismissal of the appeal. The Petitioner has established its continuing ability to pay the proffered wage from the priority date onward. It has also established that the Beneficiary meets the experience requirement of the labor certification. As we are granting the motion to reopen, the motion to reconsider is moot.

ORDER: The motion to reopen is granted and the appeal is sustained.

Cite as *Matter of J-L-I-, P.C.*, ID# 944117 (AAO Mar. 5, 2018)